

Developing Topics in Asylum: Family-Based Particular Social Group Claims Circuit Court Summaries

First Circuit

Sosa-Perez v. Sessions, 884 F.3d 74 (1st Cir. 2018)

PSG: Family membership.

Alien, a Honduran national, applied for asylum and withholding of removal. The alien received calls from local gangs threatening to kill her and her sons if she did not pay them. *Id.* at 78. On one occasion, she was robbed at knifepoint, but was spared from being raped because another person showed up. *Id.* Over the course of 3 decades, many of her family members were subjected to violence by local gangs. *Id.* One of her uncles was robbed and killed. *Id.* Her great uncle who witnessed the murder was also killed. *Id.* Another uncle was robbed and attacked, while her grandmother was threatened with a machete. *Id.* Her aunt and cousin were attacked and robbed. *Id.* Finally, her grandmother's house was broken into. *Id.* The IJ found that the attack on the alien was an isolated crime committed in a country with widespread violence. *Id.* at 79. The IJ further found that the alien failed to establish a causal link between the negative experiences that her family members experienced and family membership. *Id.* The Board affirmed. *Id.*

The court agreed, determining that the attacks on the alien and her family members were not on account of family membership. *Id.* at 80. The court explained that the alien did not know who her assailants were or whether they knew she was a member of the family she alleged they were targeting. *Id.* Moreover, the alien admitted that she did not know the motivation underlying the attacks on her family members. *Id.* Given the nature of the attacks and the lack of direct evidence, the court concluded that the attacks were criminal incidents not persecution on account of a protected ground. *Id.* at 80-81.

Ruiz-Escobar v. Lynch, 881 F.3d 252 (1st. Cir. 2018)

PSG: Family membership.

The alien, a native of Honduras, sought withholding of removal on account of his “family membership.” *Id.* at 255. A number of the alien’s family members had been killed in Honduras by a narcotrafficking gang called Los Cachiros. *Id.* The gang killed the alien’s father and uncle for refusing to sell them their family land. *Id.* at 255, 258. While attempting to kill the alien’s stepfather for refusing to become a bodyguard for a narcotrafficker, the gang killed his mother. *Id.* at 256. Two other uncles were also murdered, although it was not clear by whom. *Id.* Another uncle was possibly kidnapped by the gang. *Id.* Finally, his cousin was murdered by the gang shortly after she attempted to end a romantic relationship with a narcotrafficker. *Id.* The alien’s only personal experience involved an incident where individuals, whom he thought were

narcotraffickers, broke into his apartment, held him at gunpoint, and demanded to know the whereabouts of an individual, whose name the alien did not recognize. *Id.* The alien was not harmed and he did not report the incident to the police because he believed they were corrupt. *Id.*

The IJ denied withholding of removal, finding that the alien failed to establish that he faced persecution on account of a protected ground. *Id.* at 257. The Board affirmed. *Id.* at 258. The court held that “[i]n order for family membership to serve as the linchpin for a protected social group, it must be at the root of the persecution, so that family membership itself brings about the persecutorial conduct.” *Id.* at 259 (internal citations omitted). Specifically, the court found that the break-in did not support the alien’s assertion that he was targeted on account of family membership because he had no idea who the purported narcotraffickers were, who they were looking for, or why they were looking for that individual. The court agreed with the IJ’s observation that if the purported narcotraffickers wished to harm the alien because of his family membership, they could have done so during the break-in. *Id.* The court further determined that there was insufficient hard evidence regarding the deaths of the alien’s relatives to demonstrate that membership in the family was the root of the persecution. *Id.* at 260.

Giraldo-Pabon v. Lynch, 840 F.3d 21 (1st. Cir. 2016)

PSG: Kinship ties.

Alien, a native and citizen of Colombia, applied for asylum and withholding of removal, which were denied. *Id.* at 24. Subsequently, she filed an untimely motion to reopen. *Id.* In support of her motion, she submitted evidence of drug gang-related acts of violence against two of her cousins. *Id.* The IJ denied the motion and the Board affirmed, finding that the alien had not established a *prima facie* case for asylum based on kinship ties or imputed political opinion. *Id.* at 24-25. Although the court acknowledged that one’s family can constitute a protected social group, it upheld the Board’s determination that the alien failed to satisfy the nexus requirement because she did not proffer sufficient evidence to forge an actual connection between the harm and a statutorily protected ground. *Id.* at 25.

Hernandez-Lima v. Lynch, 836 F.3d 109 (1st. Cir. 2016)

PSG: Members of a family who were persecuted by gang members.

Alien, a native and citizen of Guatemala, applied for withholding of removal on account of political opinion and membership in a particular social group consisting of members of a family who were persecuted by gang members. *Id.* at 111. The alien left Guatemala because he received threats for his involvement with the Democratic Christian Party’s (DCP) campaign. *Id.* at 111-12. He returned to Guatemala twice to first visit his ailing father, then his ailing mother. *Id.* On his second visit back to Guatemala, he was attacked. *Id.* at 112. The assailants’ faces were covered, therefore he could not identify them. *Id.* He also did not know their motive, but he speculated that the attack was related, in part, to the extortion of his family members. *Id.* The IJ found that the alien did not

suffer past persecution or have a fear of future persecution on account of a protected ground. *Id.* The Board affirmed. *Id.*

The court determined that the alien did not establish that he or his relatives were harmed because of family membership. *Id.* at 115. The court agreed with the Board that the criminal gangs extorted his relatives for money rather than to harm them because of family membership. *Id.*

Marin-Portillo v. Lynch, 834 F.3d 99 (1st Cir. 2016)

PSG: Family.

Alien, a national and citizen of Guatemala, filed for asylum and withholding of removal. When the alien was a teenager, a police officer killed his father because his father declined to lend the police officer money. *Id.* at 100. While the police officer was incarcerated, the alien's mother received 5 to 6 phone calls threatening to kill her, the alien, the alien's brother, and the alien's uncle upon the police officer's release from prison. *Id.* The alien fled Guatemala, while his family remained unharmed even after the police officer was released from prison. *Id.* The IJ concluded that the threats against the alien did not rise to the level of persecution. *Id.* at 101. The Board held that even if the threats did constitute persecution, they were motivated by a personal dispute not a protected ground. *Id.*

The court affirmed the Board, finding that there was a lack of nexus between the police officer's threats and the alien's particular social group of family. *Id.* at 102. The court agreed that the threats against the alien stemmed from the police officer's desire to seek vengeance against the alien for pressing charges or to stop the alien and his family from further avenging the murder of the alien's father; not from kinship ties. *Id.* The court rejected the alien's claim that the Board conflated the motive for the underlying murder of the alien's father with the police officer's motive for subsequently threatening the alien and his family. *Id.* In a footnote, the court noted that it would not address whether aliens may claim persecution on account of family membership when they are targeted as retaliation for the action of another family member. *Id.*

Granada-Rubio v. Lynch, 814 F.3d 35 (1st. Cir. 2016)

PSG: Married to a man who is living and working in the United States and has the capacity to pay the \$500 monthly.

The alien, a native and citizen of Honduras, sought asylum and withholding of removal based on her fear that "the MS-13 is targeting her because they know that she is married to a man who is living and working in the United States and therefore, has the capacity to pay the \$500 monthly." *Id.* at 453. The alien received a call from someone who identified himself as being from the MS-13 gang, indicating that he knew her husband lived in the United States and threatening to kill her or her children if she did not pay \$500 a month as rent. *Id.* at 37. The alien did not inform the police about the threat because she feared police collusion with the gang. *Id.*

The IJ denied the alien relief, concluding that the alien had failed to establish that she was part of a particular social group for asylum purposes. *Id.* at 38. The IJ explained that “fear of victimization by gang members for economic reasons will not support a claim of persecution as members of a particular social group because there is nothing to differentiate members of such a group from other persons in the general populace who have been or might become victims of crime.” *Id.* at 37-38. The Board affirmed. *Id.* at 38. Relying on precedent where the court rejected proposed social groups based on wealth or perceived wealth, the court upheld the Board’s finding that the alien did not present evidence that her proposed group is socially distinct. *Id.* at 39.

Second Circuit

Celedon-Herrera v. Lynch, 627 F. App’x 6 (2d Cir. 2015)

PSG: Family of Celedon-Herrera’s murdered brother Ramon (against whom the gang had a vendetta).

Alien, a native and citizen of Honduras, applied for asylum and withholding of removal. *Id.* at 6. Alien asserted that MS-13 gang members threatened and robbed him and murdered his nephew and step-niece. *Id.* The alien argued that he and his family were targeted because of their ties to the alien’s murdered brother, Ramon against whom the gang had a vendetta. *Id.* The IJ denied relief, in part, because the alien did not establish past persecution or a fear of future persecution on account of a protected ground. *Id.* The Board affirmed. *Id.*

Citing to *Vumi v. Gonzales*, 502 F.3d 150 (2d Cir.2007), the court recognized that kinship ties or membership in a family may form a cognizable shared characteristic for a particular social group. *Id.* The court held that the IJ and Board committed reversible error by failing to explicitly conduct a mixed-motive analysis, attributing the harm solely to a personal vendetta without considering the alien’s familial ties to Ramon. *Id.*

Third Circuit

Nunez-Baquedano v. Att’y Gen’l of United States, 701 F. App’x 184 (3d Cir. 2017)

PSG: Family members of those who have been targeted

Alien, a citizen and native of Honduras, applied for asylum and withholding of removal. *Id.* at 185. The alien and her husband worked for a trucking association but resigned after accusing three other association members of theft. *Id.* at 186. Thereafter, the alien’s oldest son was hit by a car; in another incident her husband was shot in the shoulder; and in another incident the alien was approached and threatened. *Id.* The alien suspected that the incidents were tied to the three association members. *Id.* The IJ concluded that the alien did not establish a nexus between her membership in a particular social group and the harm she and her family experienced. *Id.* The Board affirmed. *Id.* at 187.

The court reiterated the IJ’s conclusion that the alien’s family membership could potentially qualify as a particular social group as it is a socially distinct group and membership in it is an immutable characteristic. *Id.* at 188. However, the court held that harm to one’s family members, without more, does not automatically extend asylum protection to the entire family. *Id.* In affirming the IJ and the Board, the court concluded that the three incidents were not linked to one another or to the alien’s membership in any particular social group, therefore the alien did not establish a sufficient nexus. *Id.* at 189.

Fourth Circuit

Salgado-Sosa v. Sessions, 882 F.3d 451 (4th Cir. 2018)

PSG: Membership in his family.

The alien, a native and citizen of Honduras, sought asylum and withholding of removal based on “membership in his family.” *Id.* at 455. The alien and his extended family were operating a small convenience store and automobile repair shop out of their family home in Honduras, when armed MS-13 gang members began to threaten and harass them for a war tax in exchange for protection. *Id.* at 454. His stepfather refused to pay the gang. *Id.* In November 2002, MS-13 members broke into the family home and held his parents at gunpoint. *Id.* The family attempted to fight back; his stepfather was shot twice. *Id.* Later, when his stepfather returned from the hospital, MS-13 attacked a third time, firing on the family home from the street. *Id.* at 2. The family fled to the alien’s grandparents’ home in a nearby town, where they remained in hiding for one year. *Id.* After learning that MS-13 was looking for them, they moved again. *Id.* In 2004, the alien’s vehicle was hit from behind, causing him severe injuries; the family believed MS-13 was involved. *Id.*

The IJ acknowledged that under *Crespin-Valladares v. Holder*, 632 F.3d 117 (4th Cir. 2011) “family ties can provide the basis for a cognizable particular social group.” *Id.* at 455. However, the IJ held that the alien failed to satisfy the nexus requirement because the gang’s motivations to persecute the alien’s family — his stepfather’s refusal to pay extortion and as revenge on the family for fighting back against the gang — did not implicate a protected ground as required under section 241(b)(3) of the Act. *Id.* The Board affirmed. *Id.* at 456.

Also citing to *Crespin-Valladares*, the court concluded that it was “clear” that the “[alien’s] family qualifies as a ‘particular social group,’ protected for purposes of his asylum and withholding of removal claims.” *Id.* at 457. Furthermore, the court reversed the IJ and the Board, reasoning that even if MS-13’s motives for targeting the alien’s family was not on account of a protected ground, this did not preclude the alien from being targeted because of a protected ground, to wit his membership in a particular social group consisting of his family. *Id.* at 458-59.

Velasquez v. Sessions, 866 F.3d 188 (4th Cir. 2017)

PSG: Nuclear family.

The alien, a native and citizen of Honduras, applied for asylum and withholding of removal on account of her membership in her nuclear family. *Id.* at 191, 192. The alien and her son fled Honduras because her mother-in-law had demanded custody of the alien's son for nearly a decade. *Id.* at 192. The mother-in-law kidnapped the alien's son more than once but her son escaped and walked home. *Id.* The mother-in-law also threatened to kill the alien if she did not relinquish custody of her son to the grandmother. *Id.* After the alien and her son fled to the United States, the alien's brother-in-law murdered the alien's sister believing she was the alien. *Id.* The IJ found that the alien's dispute with the mother-in-law was not on account of her nuclear family, but rather an intra-family custody dispute over the alien's son. *Id.* The IJ further found that the alien did not establish that the alien's mother-in-law persecuted other members of the alien's family. *Id.* The Board affirmed. *Id.* at 193.

The court recognized that an individual's membership in a nuclear family qualifies as a particular social group. *Id.* at 194. However, in distinguishing the facts of *Hernandez-Avalos v. Lynch*, 784 F.3d 944 (4th Cir. 2015) and *Cruz v. Sessions*, 853 F.3d 122 (4th Cir. 2017) from the present case, the court concluded that the dispute between the alien and her mother-in-law was private and purely personal and did not involve outside or non-familial actors engaged in non-personal reasons. *Id.* at 196. Because personal disputes fall outside of the scope of asylum protection, the court held that the alien did not meet her burden in showing persecution on account of a protected ground. *Id.*

Cruz v. Sessions, 853 F.3d 122 (4th Cir. 2017)

PSG: Nuclear family members of Johnny Martinez.

Alien, a citizen of Honduras, applied for asylum and withholding of removal on account of her membership in the nuclear family of Johnny Martinez (her partner). The alien and Martinez were a couple and had two children. *Id.* at 125. Martinez was a personal bodyguard to a purported fisherman, who turned out to be a drugs and firearms trafficker. *Id.* Soon after Martinez learned of this, he disappeared. *Id.* When the alien and Martinez's uncle searched for Martinez and told the purported fisherman that they were going to file a police report, he threatened them. *Id.* Over the course of the next 2 years, despite the alien assuring the purported fisherman that she was not going to contact the police, he and his associates loitered outside her home, brandished and fired weapons, threatened to kill her and her children, and killed her dogs. *Id.* The IJ concluded that the alien was not persecuted on account of her membership in Martinez's nuclear family. *Id.* at 126. The Board affirmed, holding that the threats were driven by personal reasons or general crime and violence in Honduras, therefore they were insufficient bases to demonstrate eligibility for asylum and withholding of removal. *Id.* at 126-27.

The court reasoned that it defied common sense for the IJ and Board to have required the alien to prove that the purported fisherman's threats were based exclusively on the alien's status as Martinez's wife. *Id.* at 130. In agreeing with the alien, the court determined that the alien's familial relationship with Martinez was intertwined with her actions resulting in the threats against her. *Id.* at 127, 129. Relying on *Hernandez-Avalos v. Lynch*, 784 F.3d 944 (4th Cir. 2015), the court held that the alien's membership in Martinez's nuclear family was a central reason why she, and not another person, repeatedly was persecuted by the purported fisherman over a 2-year period. *Id.*

Hernandez-Avalos v. Lynch, 784 F.3d 944 (4th Cir. 2015)

PSG: Membership in a nuclear family.

Alien, a native and citizen of El Salvador, applied for asylum and withholding of removal. The alien was threatened with death by Mara 18 gang members on three occasions. *Id.* at 947. The alien was first threatened when her husband's cousin was murdered by the Mara 18 for refusing to join their ranks. *Id.* Several months later, the alien was threatened again by gunpoint for resisting the gang's recruitment of her 12-year-old son. *Id.* The following year, the gang members threatened her again by gunpoint, when she refused to allow her son to join the gang. *Id.* After this third threat, the alien and her son fled to the United States. *Id.* She never reported any of these incidents to the police for fear of retaliation by the gang members. *Id.* The IJ found that the alien had not demonstrated that she was likely to suffer future persecution on account of a protected ground. *Id.* at 948. The Board concluded that the threats to kill the alien unless she allowed her son to join the gang were not made on account of the alien's membership in her nuclear family but rather because she would not consent to her son engaging in a criminal activity. *Id.* at 948.

The court concluded that the Board's reading was an excessively narrow reading of the requirement that persecution be undertaken "on account of membership in a nuclear family." *Id.* at 950. The court reasoned that the "[alien's] relationship to her son is why she, and not another person, was threatened with death if she did not allow him to join Mara 18, and the gang members' demands leveraged her maternal authority to control her son's activities." *Id.* at 950. The court determined that the Board abused its discretion and held that the alien's maternal relationship to her son was at least one central reason for two of the threats she received. *Id.* at 951.

Crespin-Valladares v. Holder, 632 F.3d 117 (4th Cir. 2011)

PSG: Family members of those who actively oppose gangs in El Salvador by agreeing to be prosecutorial witnesses.

Alien and his family, citizens of El Salvador, sought asylum after the alien testified against MS-13 gang members who killed his cousin. *Id.* at 119-20. Gang members held a gun to the head of the alien's uncle, who also testified against the alleged murderers, and pulled the trigger, although

a malfunction prevented it from firing. *Id.* at 120. MS-13 members also verbally threatened the alien and delivered notes that said he would be “next” if he continued his cooperation with police. *Id.*

The IJ granted the alien’s asylum application, finding that the alien’s proposed social group of “family members of those who actively oppose gangs in El Salvador by agreeing to be prosecutorial witnesses” qualified as a particular social group. *Id.* at 121. The Board vacated the grant of asylum, in part because it found that the alien did not establish a particular social group. *Id.* at 121.

The court reversed the Board, concluding that the “family provides a prototypical example of a particular social group.” *Id.* at 125 (internal citations omitted). The court first concluded that the asserted particular social group met the immutability test articulated in *Matter of Acosta*, 19 I&N Dec. 211, 233 (BIA 1985). *Id.* at 124. It then found that the Board inaccurately characterized the alien’s proposed social group as “anyone who testified against MS-13, as well as all of their family members” and determined that the group was insufficiently particular based on that articulation. *Id.* at 125. The court determined that the alien’s articulated particular social group, consisting of his “family unit,” possessed particular and well-defined boundaries. *Id.* at 126. Finally, the court rejected the Board’s opinion that the proposed social group lacked the requisite “social visibility.” The court held that groups based on innate characteristics such as family relationships are easily recognizable and understood by others to constitute social groups and this was particularly true for the alien’s family where the alien’s uncle publicly cooperated with the prosecution of their relative’s murder. *Id.*

Fifth Circuit

Morales v. Sessions, 860 F.3d 812 (5th Cir. 2017)

PSG: Immediate family.

Alien, a native and citizen of El Salvador, applied for asylum and withholding of removal based on her fear of persecution by two different men. *Id.* at 815. The alien argued that because she and her mother are part of the same immediate family, any past persecution of her mother can be imputed to her. *Id.* at 816.

The court held that the mother’s past persecution cannot be imputed to the alien. *Id.* In a footnote, the court explained that it had not addressed the question of whether an immediate family may constitute a particular social group, but that it need not address it in this case whether the alien was unable to demonstrate a well-founded fear of persecution irrespective of social group. *Id.* at 818.

Ramirez-Mejia v. Lynch, 794 F.3d 485 (5th Cir. 2015)

PSG: Family.

The alien, a native and citizen of Honduras, applied for asylum and withholding of removal on the basis of her family membership. *Id.* at 487-88. The alien's brother was murdered and the alien received anonymous notes demanding that she disclose information that her brother had supposedly revealed to her. *Id.* at 487. The alien did not respond to the notes and the individuals responsible for her brother's murder opened fire on her father's business while she was present. *Id.* One of the individuals who was captured threatened her at the police station when she went to file a police report. *Id.* After she fled Honduras, the individuals extorted money from her father and renewed their threats to her when she returned to Honduras after she was ordered removed. *Id.* at 488.

The IJ denied asylum and withholding of removal and the Board affirmed. *Id.* Subsequently, the alien filed a motion to reopen based on previously unavailable evidence. *Id.* Upon reopening, the IJ denied withholding of removal, finding that the alien's family did not meet the particularity and social visibility requirements of a particular social group. *Id.* at 492. The IJ further concluded that the alien did not establish that she was persecuted on account of her membership in her family. *Id.* The Board affirmed based on the lack of nexus and the court agreed. *Id.* The court determined that the primary purpose of the threats was to obtain information that the alien's brother had allegedly given the alien. *Id.* at 492. The court concluded that the evidence did not support her claim that the gang intended to persecute her on account of her family, noting that those who persecute to obtain information do not necessarily do so out of hatred for a family or vice versa. *Id.* at 493. Neither the Board nor the court addressed whether the alien's family constituted a particular social group. *Id.* at 492.

Sixth Circuit

Amezola-Garcia v. Lynch, 846 F.3d 135 (6th Cir. 2016)

PSG: Family which has been targeted by persons the government of Mexico cannot or will not control.

Alien, a Mexican citizen, applied for withholding of removal. According to his application, the alien's brother-in-law was a member of a government organization of defense for Mexico and was murdered because he and his colleagues were investigating criminal organizations on behalf of the Mexican government. *Id.* at 138. The alien and his family feared repercussions from this investigation. *Id.* The IJ denied the alien withholding of removal because his testimony was inconsistent with his application and not credible. *Id.* The Board affirmed. *Id.* The court agreed with the Board and held that the alien did not show a clear probability of future persecution based on his familial relationship to his brother-in-law. *Id.* at 142. The court explained that “[w]hen the petitioner's family members are also members of his or her protected group, the reasonableness of the petitioner's claim of future persecution is undermined when the petitioner's

family members remain in the country of removal unharmed. *Id.* The alien's testimony did not establish that family members in Mexico, who are in the same situation as the alien once he returns to Mexico, have been harmed following the death of their relative. *Id.* at 143.

Seventh Circuit

Yin Guan Lin v. Holder, 411 F. App'x 901 (7th Cir. 2011)

PSGs:

- 1) Family members of known debtors;
- 2) Family members of known Chinese debtors who fear punishment from creditors for outstanding debt.

Alien, a native of China, applied for asylum. *Id.* at 902. The alien was a son of two dairy farmers. *Id.* at 903. His father had borrowed money from the local government and invested the capital in the family farm. *Id.* When the farm failed and his father defaulted on the loan, debt collectors came looking to get paid. *Id.* The alien's father fled and the collectors targeted the alien. *Id.* Because the alien refused to disclose his father's whereabouts, officials from the Public Security Bureau detained him for 2 months and beat him multiple times until he was able to escape to the United States. *Id.* The IJ found the alien was not credible and that even if his testimony was credited, he did not establish persecution based on a protected ground. *Id.* at 904. The Board affirmed. *Id.*

The court held that to qualify for social-group membership, an applicant must establish that he belongs to a group whose common characteristic cannot change or should not be required to change because it is fundamental to their individual identities or consciences. *Id.* at 905. Although the court recognized that the family unit can constitute such a social group, it determined that the alien had not demonstrated that his family ties motivated the alleged persecution; rather the alien was harmed because of a personal dispute between his father and his father's creditors. *Id.* at 906. The court declined to hold that debtors who fear creditors qualified for social-group membership. *Id.*

Ayele v. Holder, 564 F.3d 862 (7th Cir. 2009)

PSGs:

- 1) Family;
- 2) Familial ties.

Alien, an ethnic Amhara born in Ethiopia, applied for asylum and withholding of removal. *Id.* at 865. The alien's father held a prominent government position under the Mengistu regime before its overthrow by the Ethiopian People's Revolutionary Democratic Party Front (EPRDF). *Id.* Before the EPRDF invaded the capital, the alien, her mother and her two sisters fled to Kenya, while the alien's father stayed behind. *Id.* In Kenya, the family was mistreated by Ethiopian infiltrators. *Id.* Eventually the alien moved to the United States and the alien's mother and sisters moved to the United Kingdom. *Id.* at 866. In the United Kingdom, the alien's mother became a political activist opposing the EPRDF-led government. *Id.* Meanwhile, the alien's father and

uncle were imprisoned, interrogated and tortured in Ethiopia and other relatives went missing or were murdered. *Id.* at 866-67. After the alien's father and uncle were released from prison, the alien's father remained in Ethiopia under government surveillance while the alien's uncle fled to the United States. *Id.* at 867. The IJ denied relief on that basis that the alien did not demonstrate that her fear of persecution was objectively reasonable given the current country conditions. *Id.* The Board affirmed without opinion. *Id.*

The court recognized that a family is a cognizable social group. *Id.* at 899. However, the court determined that the IJ failed to fully analyze Ayele's claim that she may face persecution on account of her familial ties. *Id.* at 869. The court further determined that the IJ did not specifically address whether the alien's family was a particular social group. *Id.* at 872. Because of this omission, it remanded the case to the Board. *Id.* at 872.

Eighth Circuit

Cambara-Cambara v. Lynch, 837 F.3d 822 (8th Cir. 2016)

PSGs: The Cambara family;

Aliens, brothers and natives of Guatemala, sought asylum and withholding of removal on account of membership in two particular social groups: the Cambara family and educated Guatemalan landowners and farmers. *Id.* at 823. The Maras 18 gang members extorted money from various members of the Cambara family. *Id.* When the family members stopped paying, the gang attacked or murdered them. *Id.* The aliens were never personally harmed or threatened. *Id.* Three of the aliens' daughters remain in Guatemala and two were sent back to visit for a month. *Id.* at 824.

The IJ determined that the aliens did not establish that they were members of a cognizable social group. *Id.* The Board affirmed, holding that the aliens did not demonstrate a nexus between the persecution and the social group consisting of members of the Cambara family. *Id.* at 825. The Board further held that educated Guatemalan landowners and farmers was not a cognizable particular social group. *Id.*

The court affirmed, holding that the aliens did not demonstrate that the gangs targeted members of the family *because of* family relationships. *Id.* at 826. The court further held that limiting the family group to "educated landowners and farmers" did not overcome the lack of nexus. *Id.* Moreover, the fact that the aliens each left their daughters in Guatemala and sent two others back to visit undermined their claim that they feared persecution on account of family status. *Id.*

Aguinada-Lopez v. Lynch, 825 F.3d 407 (8th Cir. 2016)

PSGs: 1) Male, gang-aged family members of murdered gang members;
2) Male, gang-aged family members of the alien's cousin Oscar.

The alien, a citizen of El Salvador, sought asylum and withholding of removal. *Id.* at 408. The alien was attacked on four occasions. *Id.* During the first incident, two men asked if he was in a gang and knocked him unconscious. *Id.* The second incident involved three men beating him and threatening to kill him if he returned to school. *Id.* On a third occasion, a man in black knocked him off his bicycle, pulled a gun and said "You're that rat Oscar's cousin." *Id.* Oscar was the alien's cousin and an MS-13 member. *Id.* In the last incident, two men dressed in black shot at the alien. *Id.* After the alien fled to Mexico, Oscar was killed in front of the alien's house. *Id.* The IJ found that male, gang-aged family members of his cousin Oscar constituted a particular social group, but that the alien failed to establish a sufficient nexus. *Id.* at 409. The Board disagreed with the IJ's determination that the group was cognizable, but agreed as to lack of nexus. *Id.* Assuming the alien's proffered particular social groups were cognizable, the court determined that the third attack was the only incident related to the alien's relationship to Oscar, but that incident alone was insufficient to establish nexus. *Id.*

Saldana v. Lynch, 820 F.3d 970 (8th Cir. 2016)

PSGs: 1) Family members of someone who dated gang members;
2) Lira-Pino family.

Alien, a native and citizen of Mexico, applied for asylum and withholding of removal. *Id.* at 972. Members of the Matazetas gang believed that the alien's wife (Elizabeth) and Elizabeth's sister (Angelica) were romantically involved with members of a rival criminal organization known as Los Zetas. *Id.* at 973. Masked men armed with weapons invaded the home of Elizabeth's mother, assaulted Elizabeth's brother, and asked where they could find Angelica and Elizabeth. *Id.* The men mentioned the names of members of the Los Zetas gang who were former boyfriends of Angelica. *Id.* They also threatened to rape and torture Elizabeth and Angelica. *Id.* Later, the men abducted Elizabeth's brother and mother both of whom remain missing. *Id.* Elizabeth, Elizabeth's children, and Angelica fled Mexico. *Id.*

The IJ denied asylum and withholding of removal on multiple grounds. *Id.* The Board affirmed, concluding that the alien had not identified a cognizable particular social group because the record did not demonstrate that Mexican society would perceive family members of someone who dated gang members as sufficiently distinct. *Id.* On appeal, the alien argued that the Board erred by considering the wrong social group — family members of someone who dated gang members. *Id.* at 974-75. Based on the record, the court acknowledged that the alien proffered to the Board their own specific family (Lira-Pino family) as the particular social group underlying their claim. *Id.* at 975. The court distinguished between a particular social group defined as one particular family compared to a particular social group defined as a family that could fall within a broader group of

families. *Id.* Because the court determined that the Board did not address the point directly, it declined to resolve whether the alien established a particular social group in this case. *Id.*

Ninth Circuit

C.J.L.G. v. Sessions, 880 F.3d 1122 (9th Cir. 2018)

PSG: Family.

The minor alien, a native and citizen of Honduras, applied for asylum and withholding of removal. By the age of 13, the Mara gang had approached the alien three times in an effort to recruit him. *Id.* at 1130. Each time, he refused and the Mara gang threatened to kill him. *Id.* During the third confrontation, a gang member put a gun to the alien's head and gave him 1 day to decide whether to join. *Id.* The gang also threatened to kill his mother, aunt and uncles, which prompted him and his mother to flee. *Id.* at 1130-31; 1142. The IJ determined that the alien had failed to establish membership on the basis of a protected ground. *Id.* at 1131. The Board affirmed. *Id.* The court recognized that family status can be a basis for relief where the alien is persecuted *because of* his relationship to his family members; simple association is not enough. *Id.* In the alien's case, the court determined that the alien was not threatened on account of his relationship to his mother, aunt or uncles. *Id.* at 1142. Rather, the alien's family was threatened because of the alien's refusal to join the Maras. *Id.*

Rios v. Lynch, 807 F.3d 1123 (9th Cir. 2015)

PSG: Family.

Alien, a native of Guatemala, applied for withholding of removal, claiming he faced persecution because of a gang vendetta targeting his family and because of his Evangelical Christian faith. *Id.* at 1124. Gang members killed the alien's father outside of his father's Evangelical Christian church. *Id.* at 1125. The alien's cousin, who witnessed the murder and was prepared to testify against the gang members, was murdered the day before the hearing as retaliation for her willingness to cooperate with the authorities and to prevent her from testifying. *Id.* The alien's sister received threats and fled Guatemala. *Id.* The IJ found that violence and witness intimidation, not religious persecution, led to the murders of the alien's family members. *Id.* On appeal to the Board, the alien claimed persecution on the basis of family membership, but the Board did not address this claim. *Id.* at 1125-26.

The court held that the IJ and Board erred by failing to address the family aspect of the alien's social group claim. *Id.* at 1126; 1128. The court held that under the Board's refined framework for analyzing particular social groups, the family remains the quintessential particular social group. *Id.* at 1128. The court recognized that persecutors are more likely to identify individual family members as part of a particular social group when familial ties are linked to race, religion or

political affiliation, but declined to hold that a family can constitute a particular social group *only* when it is intertwined with another protected ground. *Id.*

Tenth Circuit

Seka v. Sessions, 714 F. App'x 901 (10th Cir. 2017)

PSGs: 1) Florence's immediate family;
2) Florence's nuclear family.

Alien, a native and citizen of the Ivory Coast, applied for asylum and withholding of removal. *Id.* at 902. Alien and his fiancé, Florence, had planned to get married. *Id.* Plans were disrupted, however, when a man wealthier than the alien expressed interest in Florence and threatened to take the alien's life if he did not "renounce and forsake his wife." *Id.* The man proposed to Florence and the alien's father-in-law approved. *Id.* at 903. According to tradition, fathers have the last word on their daughters' marriage, therefore the alien and Florence decided to flee so they could still get married. *Id.* Once in the United States, the alien learned that Florence's family had been harassing his father and his parents were killed. *Id.*

Without explicitly deciding whether Florence's *immediate* family was a cognizable social group, the IJ concluded that the alien's fear of future harm was related to a personal or financial dispute, not a protected ground. *Id.* at 904. The Board affirmed, explaining that a particular social group must contain more than one person; in this case only the alien feared harm because Florence's other immediate family members had not been targeted. *Id.* at 905. The Board did not address the other purported particular social group consisting of Florence's *nuclear* family. *Id.* at 907.

The court also declined to address whether Florence's nuclear family constituted a cognizable particular social group, noting in a footnote that it had not definitively decided this issue. *Id.* Instead, the court relied on the discussion in *Velasquez v. Sessions*, 866 F.3d 188 (4th Cir. 2017) to conclude that the alien feared a familial persecutor whose motives were personal and financial in nature — a desire for his daughter to marry a wealthier man — which could not form the basis of an asylum claim. *Id.* at 908.

Eleventh Circuit

Burgos v. U.S. Attorney Gen., 676 F. App'x 850, 854 (11th Cir. 2017)

PSGs: Members of alien's mother's family who refuse to pay extortion fees.

Alien, a native of El Salvador, applied for asylum and withholding of removal based on persecution by the MS-13 on account of two particular social groups: Salvadoran youth who reject gang recruitment and members of his mother's family who refuse to pay extortion fees. *Id.* at 851. The court held that neither of the alien's asserted groups qualified as a particular social group under

the INA. *Id.* at 854. Specifically, the court determined that the alien's family was not a socially distinct group in Salvadoran society. *Id.* The court affirmed the Board and denied asylum and withholding of removal. *Id.* at 854-55.